

NTSB Order No. EA-4250

Adopted by the NATIONAL TRANSPORTATION SAFETY BOARD
at its office in Washington, D.C.
on the 15th day of September, 1994

Docket SE-12621

the proximity-to-clouds provision), an argument we discussed and rejected in Order No. EA-4207. He also maintains, as he did below, that the FAA's investigating inspector -- who was present in the cockpit at the time of the violation here at issue -- pursued this enforcement action as retribution against respondent because of respondent's conduct during an attempted discussion immediately following the subject flight. However, the law judge was aware of the circumstances underlying respondent's assertion of improper motive when he found the inspector's eyewitness testimony credible to the extent it indicated an unlawful proximity to clouds.²

In sum, we find that respondent has demonstrated no error in our decision in Order No. EA-4207.

ACCORDINGLY, IT IS ORDERED THAT:

Respondent's petition for reconsideration is denied.

HALL, Acting Chairman, LAUBER, HAMMERSCHMIDT and VOGT, Members of the Board, concurred in the above order.

² "[S]o long as the interests and motivations which could influence or color a witness' testimony are reasonably apparent on the record, the law judge's credibility assessments, made within his exclusive province as trier of the facts, are presumed to reflect a proper balance of all relevant considerations, including witness demeanor, and will not be disturbed on appeal absent extraordinary circumstances not present in this case." Administrator v. Calavaero, Inc., 5 NTSB 1099, 1100 (1986).